

AMENDED IN SENATE MARCH 25, 2003

SENATE BILL

No. 392

**Introduced by Committee on Local Government (Senators
Torlakson (Chair), Ackerman, Hollingsworth, Machado,
Margett, Perata, and Soto)**

February 20, 2003

An act to amend Sections ~~10122, 10123~~, 10301, *10311.1*, 10353, and 10366 ~~of, to add Part 4 (commencing with Section 8590) to Division 10 of, and of, and~~ to repeal Sections 10310, *10310.2*, and 10311 of, the Streets and Highways Code, relating to local agency assessments.

LEGISLATIVE COUNSEL'S DIGEST

SB 392, as amended, Committee on Local Government. Local agency assessments.

Existing statutory law provides notice, protest, and hearing procedures for the levying of new or increased assessments by local government agencies pursuant to Articles XIII C and XIII D of the California Constitution. These statutory procedures supersede other statutory provisions applicable to the levying of these assessments.

This bill would conform certain provisions of ~~the Improvement Bond Act of 1915 and~~ the Municipal Improvement Act of 1913 to the statutory procedures for levying assessments pursuant to Articles XIII C and XIII D of the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Part 4 (commencing with Section 8590) is~~
2 ~~added to Division 10 of the Streets and Highways Code, to read:~~

3
4 ~~PART 4. NOTICE AND HEARING~~

5
6 ~~8590. If new or increased assessments are proposed, the~~
7 ~~legislative body shall comply with the notice, protest, and hearing~~
8 ~~procedures set forth in Section 53753 of the Government Code.~~

9 ~~SEC. 2. Section 10122 of the Streets and Highways Code is~~
10 ~~amended to read:~~

11 ~~10122. The measure to be voted on shall include a description~~
12 ~~of the improvements proposed, a map showing the territory to be~~
13 ~~benefited by the proposed improvements and proposed to be~~
14 ~~subject to assessments, and an estimate of the costs of the~~
15 ~~improvements proposed. The measure to be voted on shall be~~
16 ~~approved by the legislative body after holding a public hearing. If~~
17 ~~new or increased assessments are proposed, the legislative body~~
18 ~~shall comply with the notice, protest, and hearing procedures in~~
19 ~~Section 53753 of the Government Code.~~

20 ~~SEC. 3. Section 10123 of the Streets and Highways Code is~~
21 ~~amended to read:~~

22 ~~10123. If the measure is approved by the voters, assessments~~
23 ~~shall be levied and collected pursuant to Chapter 5 (commencing~~
24 ~~with Section 10400). The legislative body may pay the cost of the~~
25 ~~work described in Section 10112 prior to the collection of~~
26 ~~assessments.~~

27 ~~Any assessment imposed pursuant to this section may be~~
28 ~~collected in installments over a period not to exceed five years.~~

29 ~~SEC. 4.—~~

30 ~~SECTION 1. Section 10301 of the Streets and Highways Code~~
31 ~~is amended to read:~~

32 ~~10301. After passing on the report, the legislative body shall~~
33 ~~by resolution appoint the time and place for hearing protests to the~~
34 ~~proposed assessment and shall cause notice of that hearing and a~~
35 ~~public meeting required by Section 54954.6 of the Government~~
36 ~~Code to be mailed as provided in subdivision (c) of that section. If~~
37 ~~new or increased, increased, or extended assessments are~~
38 ~~proposed, the legislative body shall comply with the notice,~~

1 protest, and hearing procedures in Section 53753 of the
2 Government Code.

3 ~~SEC. 5.—~~

4 *SEC. 2.* Section 10310 of the Streets and Highways Code is
5 repealed.

6 ~~SEC. 6.—~~

7 *SEC. 3.* *Section 10310.2 of the Streets and Highways Code is*
8 *repealed.*

9 ~~10310.2.— Any written or oral protest not made at the time and~~
10 ~~in the manner provided in Section 10310 shall be deemed to be~~
11 ~~waived voluntarily by any person who might have made such~~
12 ~~protest and such person shall be deemed to have consented to the~~
13 ~~proposed improvement, the extent of the assessment district, the~~
14 ~~proposed assessment and any other act, determination, or~~
15 ~~proceeding on which protest could be made.~~

16 *SEC. 4.* Section 10311 of the Streets and Highways Code is
17 repealed.

18 ~~SEC. 7.—~~

19 *SEC. 5.* *Section 10311.1 of the Streets and Highways Code is*
20 *amended to read:*

21 10311.1. If it shall be necessary, in order to find whether a
22 majority protest exists, to determine whether any or all of the
23 signers of written protests are the “owners” of property to be
24 assessed, the legislative body shall make such determination from
25 the last equalized assessment roll, ~~any written evidence submitted~~
26 ~~with a written protest and any other evidence received at the~~
27 ~~hearing.~~ The legislative body shall be under no duty to obtain or
28 consider any other evidence as to ownership of property and its
29 determination of ownership shall be final and conclusive.

30 *SEC. 6.* Section 10353 of the Streets and Highways Code is
31 amended to read:

32 10353. Before ordering any changes made, other than as
33 provided in Section 10352, the legislative body shall adopt a
34 resolution briefly describing the changes proposed to be made,
35 stating the amount of the estimated increase or decrease in the cost
36 of the improvement by reason of the proposed changes and giving
37 notice of a time and place when and where any interested person
38 having any objection to the changes proposed to be made may
39 appear before the legislative body and show cause why the changes
40 should not be ordered. The resolution shall also contain the name

1 and telephone number of a local department or agency designated
2 by the legislative body to answer inquiries regarding the hearing
3 proceedings. The resolution may describe the changes by referring
4 to maps, plats, plans, profiles, detailed drawings, or specifications
5 on file in the office of the clerk of the legislative body or engineer,
6 which shall indicate the changes proposed to be made and which
7 shall govern for all details thereof. The resolution shall be
8 published pursuant to Section 6061 of the Government Code, at
9 least 10 days prior to the date of the hearing. If new ~~or increased~~,
10 *increased, or extended* assessments are proposed, the legislative
11 body shall comply with the notice, protest, and hearing procedures
12 in Section 53753 of the Government Code.

13 ~~SEC. 8.—~~

14 *SEC. 7.* Section 10366 of the Streets and Highways Code is
15 amended to read:

16 10366. (a) For purposes of proceeding under this chapter, the
17 notice shall contain the following elements:

18 (1) A statement of the time, place, and purpose of the hearing
19 on the resolution of intention and report.

20 (2) A statement of the total estimated cost of the proposed
21 improvement and of the maximum cost of the improvement.

22 (3) The estimated and maximum amounts, as shown by the
23 report, to be assessed against the particular parcel covered by the
24 notice.

25 (4) A statement that any person interested may file a protest in
26 writing as provided in this division.

27 (b) If new ~~or increased~~, *increased, or extended* assessments are
28 proposed, the legislative body shall comply with the notice,
29 protest, and hearing procedures in Section 53753 of the
30 Government Code.

